

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

July 19, 2005

The Capital Projects and Bond Oversight Committee met on Tuesday, July 19, 2005, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Mike Denham, Co-Chair; Representatives Bob Damron, Paul Marcotte, and Jim Wayne; and Senators Tom Buford, Jerry Rhoads and Dan Seum.

Guests testifying before the Committee: Robbie Rudolph, Jim Abbott, and Steve Biven, Finance and Administration Cabinet; Mark Rutledge, Commonwealth Office of Technology; Bridget Brown, Department of Juvenile Justice; Luke Morgan and Greg Rush, Justice Cabinet; Allene Rash, University of Kentucky; Larry Owsley, University of Louisville; Sandy Williams, Kentucky Infrastructure Authority; and Tom Howard, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, Kristi Culpepper, Bart Hardin, and Shawn Bowen.

Representative Denham recognized as guests Representative Jim Bruce and his wife Janie, and two students in attendance from Representative Denham's legislative district.

Representative Marcotte made a motion to approve the minutes of the June 21, 2005, meeting as submitted. The motion was seconded by Senator Rhoads and passed by unanimous voice vote.

Senator Tori called on Ms. Mary Lynn Collins, Committee Staff Administrator, to review correspondence items. Ms. Collins said members' folders included correspondence from the Cabinet for Economic Development reporting three allocations from the New Economy High Tech Investment/Construction Pool; a report from the University of Kentucky on plans to use the Construction Management-at-Risk project delivery method for the new hospital facility authorized in the 2004-2006 budget; quarterly construction status reports; and the Kentucky Lottery Corporation's monthly financial report for May 2005.

Senator Tori said last month the Committee requested that today's agenda include briefings on three capital projects. She introduced Finance and Administration Cabinet Secretary Robbie Rudolph and Mr. Mark Rutledge, Executive Director of the Office of Information Services, Commonwealth Office of Technology, to provide a briefing on the Wireless Information Network Upgrade that will move the Kentucky Emergency Warning System (KEWS) from analog to digital technology.

Secretary Rudolph said they could not discuss the KEWS project in depth, because it is still in an open procurement phase. The Commonwealth Office of Technology (COT) requested \$26 million in its 2004-2006 budget request for this project; however, COT was appropriated only one-half of the request (\$13 million). Secretary Rudolph said even though this project received only partial funding, it will still result in a useful project, and everything that is bid and let for this project will be used.

In response to a question from Representative Wayne, Secretary Rudolph said that COT planned to request an additional \$13.8 million for the project in the upcoming 2006 session. Mr. Rutledge added that the design for the wireless infrastructure is different than most of the contracts let by Facilities. He said there is no standardization in microwave technologies, and for each company proposing a solution, the design is unique to the manufacturer and would be predicated on their equipment. He said for this reason, the contract and the Request for Proposal (RFP) to design and install is being procured under one RFP.

Mr. Rutledge said KEWS currently is an analog system used by local, state, and federal governments. As COT builds the new system, they will divide the state up in regions, and complete the project by region. During the transition stage, the analog system will remain in place until the new system is ready, which should take approximately 12 to 18 months. Mr. Rutledge said the authorized funds will be used, in part, to pay for the design.

Mr. Rutledge said the project is critical to the public safety agencies that use KEWS for interoperability. He said Homeland Security has obtained \$38.5 million for data interoperability, and KEWS is critical to that project as well. It is also the backbone that ties all local entities together sharing information in the criminal justice system.

Representative Damron asked why COT did not receive the requested \$26 million for this project. Mr. Rutledge said during the budget negotiations, the agency was asked if the project funding could be divided into two phases. Representative Damron said the legislature needs to understand if they spend \$13 million on the project, they will be committed to spend \$13 million in the next session.

In response to another question from Representative Damron, Mr. Rutledge said local entities would not incur any additional operational costs for daily operation of the

new system. He said if they do not find the funding for this project, interoperability will not be achieved.

Representative Damron asked if this project would qualify for homeland security funding. Mr. Rutledge said they have had conversations with the state and federal offices of homeland security, and they are researching options that may be available.

Representative Denham asked about the status of the Kentucky Children's Health Information System. Mr. Rutledge said that project and expertise was not in his office, but he would be glad to take any questions back the Committee has and get the answers. Representative Denham requested that the Committee be briefed on the Children's Health Information System at a future meeting.

Senator Tori said the next briefing focused on the settlement problems at the Laurel County Regional Juvenile Detention Center. She said this building, only three years old, was closed last month due to settlement problems. Ms. Bridget Brown, Commissioner, Department of Juvenile Justice, and Mr. Luke Morgan, Executive Director for the Office of Legal Services, Justice and Public Safety Cabinet, joined Secretary Rudolph at the table for this discussion.

Secretary Rudolph said the settlement problems at this facility include a wall that has shifted and possible settlement of the floor. He said in order to determine the cause of the settlement problems, this project has received an allocation of \$70,000 from the Emergency Repair, Maintenance and Replacement Account. The funds will cover the cost for an independent forensic engineer to evaluate the cause of the problems.

Secretary Rudolph said it is early in the evaluation, and the findings of the independent forensic engineer would need to be discussed with the Committee at a future meeting. He said if the Cabinet finds the builder at fault, the state will work with the contractors to correct the problems.

Senator Tori asked Secretary Rudolph if he would brief the Committee at its August meeting on the progress of this evaluation. Secretary Rudolph said August may be too soon in the evaluation process, but they will report as soon as possible.

Senator Tori said the third and final requested briefing was on construction problems at the new Elliott County prison, the Little Sandy Correctional Complex. She said last February, Secretary Rudolph reported to the Committee that a number of problems had been identified concerning this project as construction was nearing completion. Those problems included water infiltration through the cell walls, HVAC issues, multiple cracks in the precast concrete, a bowed and moving retaining wall, and excessive water infiltration from the prison into the Sandy Hook sewer system. Joining

Secretary Rudolph at the table for this presentation was Commissioner Jim Abbott, Department of Facilities and Support Services, Finance and Administration Cabinet.

Secretary Rudolph said the problems identified at the prison in February have been substantially addressed. To rectify the problem of water infiltration through the cell walls, they have applied the first of two rubberized coatings. The HVAC system has been repaired, but some duct work still needs to be completed. The bowed retaining wall has been repaired and is being monitored to gauge any more movement. Also, the cracks in the floor have been repaired and sealed. The gymnasium wall has been repaired and inspected, a leak causing excessive water flow into the sanitary sewer has been repaired, and the fiber cabling problem corrected. Secretary Rudolph explained that a dispute had arisen between the state and the contractor over whose responsibility it was to move the furniture. The furniture is being moved by inmate labor, and the Cabinet is negotiating with the construction company for adjustment in the contract to reflect that the contractor did not provide moving services.

Secretary Rudolph said the state is also negotiating with the contractor to withhold a portion of the final payment sufficient to cover future maintenance expenses the state will incur due to contractor error. Secretary Rudolph said the building comes with a one-year warranty, so they have a year to watch the building. He said they want to make sure the coating does not corrode the stainless steel.

In response to a question from Senator Tori, Secretary Rudolph said the rubberized coating on the cell walls will need to be applied every 15 years.

In response to another question from Senator Tori, Secretary Rudolph said all but \$4 million of the design-construction contract has been paid to Ray Bell Construction Company. In response to a question from Representative Wayne, Secretary Rudolph said the state will not be required to pay any more for this project than originally agreed, and all repairs now being done are being paid for by the contractor.

Mr. Abbott said the design-build delivery method used for the construction of the Little Sandy Correctional Complex has its advantages in terms of time. However, he pointed out that under such procurement, the owner has less control over design. Many of the problems associated with the Elliott County prison relate to items they were not able to review prior to construction. Mr. Abbott added that the Finance Cabinet will not be using the design-build delivery method on many projects in the future.

Senator Tori next asked Mr. Abbott to present the Finance Cabinet's monthly report to the Committee. Mr. Abbott first reported an allocation of \$100,000 from the Emergency Repair, Maintenance and Replacement Account to address structural issues and problems with the air-handling units at the Old Science Building at Northern Kentucky University (NKU).

Representative Damron noted that NKU's number one capital priority is the renovation of the Old Science Building. He asked if the improvements the University plans to make now are prudent, given the plan for a major renovation of the facility. Mr. Abbott said the building is currently being utilized, and they are trying to address immediate concerns as a bridge to the proposed renovation effort.

Representative Marcotte said he attended the University's presentation on capital needs at the July 2005 Capital Planning Advisory Board meeting, and that this work is consistent with plans for the major renovation of the Old Science Building. Senator Tori said allocations from the Emergency Account do not require any Committee action.

Next, Mr. Abbott reported an allocation of \$190,000 from the Capital Construction and Equipment Purchase Contingency Account to furnish and equip the new Belinda Mason Academic/Technical Building at Southeast Community College. He said the money originally allocated to purchase furniture and equipment was used to cover unforeseen circumstances relative to soil conditions encountered during construction of the facility. This project did not require Committee action.

Mr. Abbott then discussed an unbudgeted land acquisition project for the Department of Fish and Wildlife Resources. He said this project involves the acquisition of approximately 770 acres known as the Mathis tract in Hickman, Kentucky. The cost of the acquisition is \$540,000, and the funding is 50% federal funds and 50% Kentucky Heritage Land Conservation funds.

Mr. Abbott then reported a \$2,428,889 scope increase for the Old Hospital Building Renovation project at Northpoint Training Center in Danville. The funds will be used to install a sprinkler system, an elevator, and complete HVAC work. Mr. Abbott said completion of the project will allow the institution to add approximately 300 beds for female prisoners. The source of funds is \$2,186,000 in federal funds from the Violent Offender Incarceration Program, and \$242,889 in state funds from the Department's Miscellaneous Maintenance Pool. The revised project scope is \$6,011,410.

Representative Wayne asked if the Department had previously planned to use the Miscellaneous Maintenance Pool funds for another project. Mr. Abbott said he was not familiar with the earlier funding scope of this project, but he would be glad to check with the Governor's Office for Policy and Management and let the Committee know.

Representative Damron asked why the Violent Offender Incarceration Program funds were not included in the budget process. Mr. Abbott said he did not know, but he would find out, and let the Committee know.

Representative Damron said it concerns him when a significant amount of federal dollars appear in an ongoing program such as the Violent Offender Incarceration Program without first being included in the budget process. He said he preferred such projects to go through the General Assembly, as opposed to through the Executive Branch only.

Representative Damron asked if the Northpoint Training Center project will have any impact on occupancy and employment at the Otter Creek facility in Floyd County. Mr. Greg Rush, Staff Assistant, Justice and Public Safety Cabinet, said the beds at Northpoint are to be used ultimately for a drug treatment program for female inmates. He said the contract negotiated with Corrections Corporation of America for the Otter Creek facility is to house minimum security female inmates. Mr. Rush said the growth in the population of female inmates would be more than enough to accommodate both facilities, as there is currently a backlog of female inmates housed in local jails.

In response to another question from Representative Damron, Mr. Rush said it was his understanding that the Violent Offender Incarceration Program funds were originally earmarked for a different project, and as the Northpoint Training Center project developed, the funds were redirected to the envelope stabilization project at Northpoint. He said he would check further into the matter for the Committee.

Representative Damron asked Committee staff to find out if the federal funds for this project were budgeted for some other purpose during the 2005 budget process, and if they were not, why were they not included in the budget process by the Justice and Public Safety Cabinet.

In response to questions from Representative Damron, Mr. Rush said once the 300 beds are ready for occupancy at Northpoint Training Center, additional employees will be hired to handle the increased capacity. He said the medical needs for inmates in the drug treatment program would most likely be handled through the facility's medical contract.

Mr. Rush said this project is the stabilization of the building, it will not actually open the building. The Department of Corrections has another project in its Capital Plan that would finish out the project in approximately three years.

Representative Damron made a motion to approve three projects: the Contingency Account allocation to Southeast Community College, the land acquisition project in Hickman County, and the Northpoint Training Center Old Hospital Building Renovation project. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

The last item Mr. Abbott reported was an unbudgeted \$191,300 scope increase for the Department of Veterans' Affairs Renovate/Relocate Thomson-Hood Veterans' Center

Special Care Unit project. The scope increase will be covered by \$124,345 in federal funds and \$66,955 in restricted agency funds.

Mr. Abbott said the Department of Veterans' Affairs requested to increase the scope of this project due to an erroneous bid estimate. He said the bids were higher than estimated, and the scope increase will be used to permit award of a construction contract. The revised project scope is \$4,141,300.

Senator Tori asked what year the Thomson-Hood Veterans' Center was built. Ms. Nancy Osborne, Committee staff, responded that the facility was constructed in 1991.

Senator Tori said final approval for the scope increase has already been given by Secretary Rudolph due to deadlines to secure the federal funds, and no further action by the Committee was required.

Mr. Steve Biven, Director, Division of Real Properties, presented four lease reports. The first two reports Mr. Biven presented involved the same lease, PR-4742, the Cabinet for Health and Family Services, KAMES Program (Kentucky Automated Management and Eligibility System). Mr. Biven said the KAMES Program's lease should have been reported as an emergency lease. He explained that the agency was required to find new office space after the lessor informed them the property had been sold, and the lease would not be renewed. A new lease was procured at 193 Versailles Road, Frankfort, an annual cost of \$157,574. The second item reported by Mr. Biven was a lease modification to fit up the new space for KAMES. Building modification costs of \$48,301, plus 6% interest, will be amortized over the remaining lease term (June 30, 2008). Since the agency has already moved to the new location and Mr. Biven indicated it was an emergency situation, the Committee did not take any action on the KAMES lease.

Senator Seum asked how the state typically procures leased space. Mr. Biven said an agency first notifies his office of space needs, and the Division of Real Properties then advertises for office space to lease. Prospective lessors will respond to the advertisement, and the space offered is examined by the Division of Real Properties. The Division of Real Properties then helps to select the best proposal offered.

Next, Mr. Biven reported the renewal of a lease for the Revenue Cabinet (PR-3747) at 101 Fair Oaks Lane in Franklin County. The lease is being renewed at a cost of \$278,384 (17% increase) annually.

Representative Damron made a motion to approve the lease renewal. The motion was seconded by Senator Seum and passed by unanimous roll call vote.

The last item Mr. Biven reported was an emergency lease for the Environmental and Public Protection Cabinet (PR-4747) at 375 Versailles Road in Franklin County. He

said the agency had leased space at 663 Teton Trail under PR-3978 but was ordered by the Fire Marshal to vacate the facility due to structural problems. Some staff were relocated to existing leased space. A new lease was procured for the rest of the staff at an annual cost of \$47,260. Senator Tori said no action is required for this emergency lease.

Ms. Allene Rash, Manager, University of Kentucky (UK) Real Property Office, presented a lease modification report for the University. Ms. Rash said UK plans to increase the square footage for the UK College of Medicine Comprehensive Assessment and Training Services project (CATS) lease, located at 3470 Blazer Parkway, by 2,149 square feet. The annual cost of the lease is \$142,928.

Representative Damron made a motion to approve the lease. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Mr. Larry Owsley, Vice President for Business Affairs, University of Louisville (U of L), presented a new lease for the University. Mr. Owsley said the U of L Department of Family Medicine is expanding its program and is in need of additional clinical office space. He said the University has initiated a new lease at an annual cost of \$142,747. The leased space is at Central Station Office Building, 215 Central Avenue in Louisville.

Representative Wayne made a motion to approve the new lease. The motion was seconded by Representative Marcotte and passed by unanimous roll call vote.

Ms. Sandy Williams, Kentucky Infrastructure Authority (KIA), reported two new KIA loan requests. The first request was a Fund A (Federally Assisted Wastewater Revolving Loan Fund) loan in the amount of \$21,000,000 for the Winchester Municipal Utilities via the City of Winchester (Clark County). The proceeds will be used to construct a new wastewater treatment plant.

The second request Ms. Williams reported was a Fund B (Infrastructure Revolving Loan Fund) loan in the amount of \$2,548,148 for the Boone County Fiscal Court. The proceeds will be used to install additional waterlines for the county.

Representative Wayne made a motion to approve the two KIA loans. The motion was seconded by Representative Marcotte and passed by unanimous roll call vote.

Also included in members' folders was a report from KIA regarding various Coal/Tobacco Development Grants. No further action was required on these projects.

The next report was provided by Mr. Tom Howard, Acting Executive Director, Office of Financial Management. Mr. Howard presented the first of two new bond issue reports: Kentucky Housing Corporation Single Family Housing Revenue Bonds, 2005

Series F & G, or additional series as may be designated in an amount not to exceed \$80 million. Mr. Howard said the proceeds will be used to provide mortgage financing for first-time low and moderate income Kentucky homebuyers.

The second bond issue presented was University of Kentucky Consolidated Educational Buildings Revenue Bonds, Series U, \$11,370,000. Mr. Howard noted this bond issue was submitted the day of the meeting. He apologized and explained that the bond issue had not been submitted on time due to a clerical error. Mr. Howard said the proceeds from this issue will be used to complete a parking structure project and a variety of infrastructure projects at the University of Kentucky.

Representative Denham made a motion to approve the two new bond issues. The motion was seconded by Representative Wayne and passed by unanimous roll call vote.

Mr. Howard presented three follow-up reports for previously approved bond issues: University of Louisville Consolidated Educational Buildings Revenue Bonds, Series P, dated June 1, 2005, \$4,280,000; Kentucky Housing Corporation Housing Revenue Bonds, 2005 Series C (Non-AMT) and D (AMT), \$60,000,000; and Kentucky Asset/Liability Commission General Fund Tax and Revenue Anticipation Notes (TRANs), 2005 Series A, \$607,704,000.

Representative Denham asked if the Office of Financial Management is seeing the interest rates they anticipated and if the steady increase in rates has affected the bonds. Mr. Howard said the rates are helping alleviate some of the negative arbitrage associated with the reinvestment of proceeds, and that has been beneficial to the state.

In response to a question from Representative Damron, Mr. Howard said the TRANs was issued at a fixed rate interest rate. He said they reinvested a portion of the proceeds at a fixed rate, swapped a portion of the TRANs back to variable rate and invested in AAA rated variable rate assets as an offset.

Representative Damron asked how much investment income the state earned last year. Mr. Howard said including the 2004 TRAN, approximately \$4-\$5 million was earned.

Representative Damron asked if the increased debt the state has encumbered has affected its bond rating. Mr. Howard said there has been some general concern, but at this point they have not experienced any negative rating action because of the increased debt.

Senator Tori said these follow-up reports are for bond issues previously approved, and no further action was required.

Mr. Howard next presented fourteen new school bond issues with School Facilities Construction Commission (SFCC) debt service participation: Bowling Green Independent (Warren Co.), Caldwell County, Erlanger-Elsmere Independent (Kenton Co.), Ft. Thomas Independent (Campbell Co.), Graves County, Jefferson County (2), Lewis County, Muhlenberg County, Pendleton County, Pike County, Russell County, and Warren County (2).

Representative Denham made a motion to approve the fourteen school bond issues. The motion was seconded by Representative Marcotte and passed by roll call vote. Representative Damron abstained from the vote citing a potential conflict of interest.

Ms. Collins said there were seven locally-funded school bond issues submitted to the Committee for review this month: Boone County, Breathitt County, Clay County, Henderson County, Jackson County, Spencer County, and Woodford County. She said all disclosure information has been filed, and no further action on the bond issues was required.

Also included in members' folders was the debt issuance calendar. No action was required for this report.

Senator Tori said the Committee's next meeting is scheduled for August 16 at 1:00 p.m. in Room 129, Capitol Annex.

With there being no further business, the meeting adjourned at 2:20 p.m.